



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 11 2012

Colonel Steven Roemhildt
District Engineer
U.S. Army Corps of Engineers
Birmingham Field Office
Attn: Courtney Shea
218 Summit Parkway, Suite 222
Homewood, Alabama 35209

Subject: The Environmental Protection Agency comments on the initial 3.4-mile phase of Birmingham Northern Beltline
Reissued Public Notice SAM-2011-01079-CMS; Jefferson County, Alabama

Dear Colonel Roemhildt:

The U.S. Environmental Protection Agency, Region 4 has reviewed the June 22, 2012, reissuance of Public Notice (PN) number SAM-2011-01079-CMS, originally issued October 12, 2011, but withdrawn November 14, 2011. The proposal is for construction of an initial 3.4 mile phase of the eastern portion of the Birmingham Northern Beltline (Beltline), a 52-mile limited access highway project graded for eight lanes, with six lanes paved, as proposed by the Alabama Department of Transportation (ALDOT). The project would be located in Jefferson County, Alabama and is intended to be part of the Appalachian Development Highway System. The purpose described in the PN is to "enhance cross-region accessibility and stimulate economic development." The proposed 3.4 mile phase remains unchanged from that described in the October 2011 PN. We previously expressed concerns regarding this project in our letter of August 17, 2012, and received a communication from the ALDOT also dated August 17, 2012, that speaks to some of those concerns. However, that communication from ALDOT did not substantively address many of the issues, which we reiterate below with the current letter.

The 3.4 mile proposed project is but one component of the broader eastern portion of the Beltline. Therefore, the EPA is seeking information that: (1) demonstrates that the purpose and need for the 3.4 mile proposed project has independent utility and (2) the potential aquatic resource impacts for this project are commensurate with the demonstrated purpose and need in accordance with the Section 404(b)(1) Guidelines (Guidelines) and 2008 Mitigation Rule. In addition, the EPA also recommends that the U.S. Army Corps of Engineers (Corps) request the applicant to provide an updated environmental analysis of the aquatic resource impacts associated with the eastern half of the Beltline corridor. We believe this analysis is needed to address the cumulative aspects of the 3.4 mile proposed project within the broader context of the eastern Beltline corridor. In addition, this analysis could address the additional information the ALDOT agreed to provide at the May 3, 2012, meeting with the EPA, the Federal Highway Administration (FHWA), the ALDOT and your staff. At that meeting the ALDOT committed to providing information in several areas, including maps, quantification of direct impacts to wetlands and streams in current terms (i.e., not converting stream impacts to acreage) for the eastern portion, a more complete indirect and cumulative environmental effects analysis, compensatory mitigation, alternatives analysis and specific commitments for stormwater and green design alternatives.

We recommend that the purpose for the increased number of lanes and grading be further documented and considered, as this directly speaks to the avoidance and minimization requirements of the 2008 Mitigation Rule. We understand the considerations presented in ALDOT's August 17, 2012, letter on the relative stormwater impacts of a four vs. six lane highway and on the construction efficiencies which would result from building all six lanes during initial construction. That said, it remains an open question whether this segment at this time, or the Eastern Beltline in general, would support the larger footprint.

In a letter dated October 13, 2011, the Birmingham Metropolitan Planning Organization stated that it was "very difficult to ascertain ...the substantial changes in population, employment and/or travel demand (both existing and forecast) that would necessitate the increase in roadway capacity." The *Reevaluation* of the Final Environmental Impact Statement includes information on traffic forecasting, but does not appear to specifically address whether this supports the expanded scope of the project. For example, traffic projections provided in the *Reevaluation* do not appear to support a six-lane facility. According to ALDOT's Approved Traffic Capacities document (February, 2004), a four-lane, six-lane, and eight-lane, freeway can accommodate an average annual daily traffic (AADT) of 68,000, 102,000 and 136,000, respectively. The AADT projected for this phase of construction is only 42,398 for the design year 2032. Traffic volumes along the entire eastern corridor are also well below 68,000 AADT or four-lane approved traffic capacity.

We recommend the environmental analysis include a conceptual-level discussion of the types of measures to avoid, minimize and mitigate impacts to aquatic resources that we mutually agreed to during our August 14, 2012, meeting for the 3.4 mile proposed project and apply them to the rest of the eastern portion of the Beltline. We request that the Corps or the ALDOT circulate this analysis to key stakeholders prior to any 404 permit applications for future segments of the eastern Beltline. This will give the key stakeholders an opportunity to conduct an informed review of the 3.4 mile project within the broader context of the eastern Beltline.

In addition, the ALDOT states in its communication of August 17, 2012, that it is gathering site-specific data for water quality modeling of the 3.4-mile initial segment. The EPA agrees that modeling should be calibrated with site-specific, in-stream data, rather than default values as previously used. Other models such as LSPC (Loading Simulation Program C++) may be more appropriate for understanding the effects of development on delivery of pollutants to streams, and more specific evaluation of impacts to sensitive areas such as darter habitat can be achieved with models such as HSPF (Hydrological Simulation Program-FORTRAN).

The EPA also recommends that for compensatory mitigation, no less than 1:1 loss:replacement be accepted and that riparian buffer mitigation only be accepted in conjunction with warranted stream channel work. We also recommend that consideration be given to protecting sensitive areas (e.g., Darter habitat in Turkey Creek) that could be impacted by development encouraged by construction of the proposed highway. We understand ALDOT's position that it must rely on "other municipalities and public entities to regulate and control development to ensure environmental impacts are avoided, minimized and mitigated," and appreciate ALDOT's support for such efforts. ALDOT's letter of August 17, 2012, recognizes that currently there are no approved stream or wetland mitigation banks with service areas including the impact area of the initial 3.4-mile segment, and states that ALDOT is seeking to have mitigation banks developed to serve the impact area of the Northern Beltline. EPA recommends that ALDOT work proactively with the Corps and EPA to ensure that any compensatory mitigation

options pursued will fully offset impacts in the affected watersheds, as required by the 2008 Mitigation Rule.

The EPA greatly appreciates the coordination and communication with the FHWA, the ALDOT and the Corps and we look forward to continuing this constructive dialogue. However, at this time, given the need for additional information and in order to meet the terms of the August 1992 Memorandum of Agreement between EPA and the Department of Army, we have determined that the current proposal as it stands does not comply with the Guidelines or the 2008 Mitigation Rule and therefore, this project will have substantial and unacceptable adverse impacts on Aquatic Resources of National Importance. We recommend denial of the project as currently proposed and we will revisit this recommendation upon receipt and review of the above-referenced information.

This letter follows the field level procedures outlined in the August 1992 Memorandum of Agreement between the EPA and the Department of the Army, Part IV, paragraph 3(b) regarding Section 404(q) of the Clean Water Act. If you have any questions regarding these comments, please contact Ms. Rosemary Hall at (404) 562-9846, hall.rosemary@epa.gov, or Mr. William Cox at (404) 562-9330, cox.williaml@epa.gov of the Wetlands, Coastal and Oceans Branch.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Keyes Fleming', written in a cursive style.

Gwendolyn Keyes Fleming
Regional Administrator

cc: Ms. Cindy House Pearson
U.S. Army Corps of Engineers

Mr. Aaron Peters
Alabama Department of Environmental Management

Mr. Bruce Porter
U.S Fish and Wildlife Service

Ms. Lynne Urquhart
Federal Highway Administration

Mr. Mark Bartlett
Federal Highway Administration

Ms. Alfredo Acoff
Alabama Department of Transportation

Mr. William Adams
Alabama Department of Transportation